VICTOR ATIYEH
GOVERNOR

Department of Land Conservation and Development

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M E M O R A N D U M

May 12, 1986

TO: Interested Persons

FROM: James F. Ross, Director

SUBJECT: PROPOSED RULE ON INDUSTRIAL AND COMMERCIAL DEVELOPMENT PLANNING

Attached for your review is a draft administrative rule affecting local planning for industrial and commercial development in urban areas. A public hearing on the rule is scheduled for the June 5 Commission meeting in Salem. A second hearing may be held at the July 24 Commission meeting with a final hearing tentatively scheduled for the September 11 Commission meeting.

The rule carries out ORS 197.712(2) adopted by the 1983 Legislature. This statute requires local governments to refine their comprehensive plans to provide adequate opportunities for economic development. The major provisions of the rule are outlined in the attached chart.

The Department has prepared the rule under the direction of a joint subcommittee of Economic Development Commission and Land Conservation and Development Commission members and with the assistance of a Technical Advisory Committee made up of local planners and economic development specialists. Based on their comments the Department has identified several issues that are of special concern in rulemaking.

Application to Small Cities

The Department would like to exclude urban areas of under 2,500 in population from the requirements of this rule. However, the Attorney General's Office has advised the Commission that it can not adopt such an exemption. Since the same statute exempts such small cities from the public facilities planning requirements the Attorney General concluded that had the Legislature intended such an exemption, they could have applied it to the industrial and commercial development planning requirements.

The Commission does have the authority to write the rule to meet the diverse administrative and planning capabilities of local governments. Therefore the Department is looking for suggestions on how the rule can be written to provide a more simple set of procedures and requirements for smaller cities.

The Department has already attempted to simplify the rule for smaller cities in three ways. First, the level of effort needed to comply with the rule will vary depending on jurisdiction size and the extent of available information. Second, smaller cities are not required to identify the specific industries

they intend to provide for because of the limited information available to them. Third, small cities are not required to provide a short-term supply of serviced sites since they are not required to prepare public facilities plans by the Public Facilities Planning Rule (OAR 660-11).

Reliance on Existing Planning Work

Both the Department and the Joint EDC-LCDC Subcommittee recognize that many local governments have done considerable economic development planning work. It is not the intent of the rule to require duplication of this work. The rule allows local governments to rely on existing planning when:

1. It satisfies rule requirements; and
2. New information on state and national trends doesn't result in changed local economic development objectives.

Some Portland area planners have suggested that the rule should allow jurisdictions to focus their economic development efforts on a specific category of industrial or commercial use. They suggest rewriting the rule to allow a jurisdiction to select target industries first and then conduct the economic analysis and lands inventory for the narrow group of uses it has chosen to pursue. The planners who have offered this alternative are concerned that the proposed rule requires a broad based analysis and inventory that is either already done in acknowledged plans or would be irrelevant to a community's major economic objectives.

Inventory of Vacant Industrial and Commercial Land

The draft rule requires that local governments inventory vacant and redevelopable land designated for industrial and commercial use. Some Technical Advisory Committee members expressed concern that the rule will be too broad and unworkable if every parcel must be inventoried. The Department has written the rule to clarify the inventory requirement:

1. Mapping is only required for parcels of one acre or larger. Several city planning directors have suggested limiting the inventory requirement to sites of five acres or larger in size. They have also suggested limiting the inventory to industrial sites. The Department is concerned that leaving out parcels smaller than five acres will exclude the size of parcels where most economic development will occur.

2. Inventory information keyed to mapped sites would indicate site size, proximity of services and roads and site constraints.

COMMENTS

Questions about the proposed rule should be directed to Dick Mathews or Bob Cortright at the Department's Salem Office. Written comments should be provided to the Department by 5 p.m. on May 27 so that they can be reviewed by the Technical Advisory Committee and the Commission prior to the Commission meeting. Written comments received after that date will be hand delivered to the Commission at its June 5th meeting. The Commission meeting will be held in Room E of the State Capitol in Salem beginning at 8:30 a.m. A specific time for the public hearing on this rule has not been set.

JFR/kj/8341DBC/191C

SUMMARY OF PROPOSED
INDUSTRIAL & COMMERCIAL DEVELOPMENT RULE

(010)
APPLICATION

(1) All areas within within UGB's (rural areas unaffected)

(2) At first periodic review after rule is adopted

(3) Rely on acknowledged plan work as much as possible

(4) Use best available or readily collectable information

(015)
ANALYSIS

(1) Review state, national and local trend information

(2) Identify site requirements of industries likely to locate or expand

(3) Inventory vacant and redevelopable commercial and industrial sites one acre and larger

(4) Assess community economic development potential

(020)
POLICIES

Include policies stating economic development objectives.

Urban areas 2,500+:

(1) Identify particular types of industry and commercial uses anticipated and desired

(2) Policy commitment to provide adequate sites and facilities

(025)
DESIGNATION OF LAND

(1) Identify number and acreage of needed sites in each category

(2) Provide long-term supply of land (meet 20-year need in each site category)

(3) Provide short-term supply of sites by amending Public Facilities Plan

(4) Protect sites for uses with special siting requirements

BC:sp
8365D/191C

BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON

FILED
MAY 9 1986
BARBARA ROBERTS
SECRETARY OF STATE

IN THE MATTER OF ADOPTION OF A PROPOSED INDUSTRIAL AND COMMERCIAL DEVELOPMENT RULE (OAR 660-09-000-025	)))	NOTICE OF A HEARING ON PROPOSED INDUSTRIAL AND COMMERCIAL DEVELOPMENT RULE

1. At the Commission's June 5, 1986 meeting, a public hearing will be held in Hearing Room E of the State Capitol in Salem, Oregon, to hear testimony on a proposed rule setting requirements for the planning of industrial and commercial development in urban areas. The proposed rule would implement ORS 197.712(2)(a-d) which requires the Commission to set more specific requirements for local economic development planning. The Commission meeting will begin at 8:30 a.m. No specific time has been set for the commencement of the public hearing on the proposed rule.

2. The purpose of the rule is to assure that comprehensive plans and land use regulations are updated to provide adequate opportunities for a variety of economic activities throughout the state and to assure that plans are based on available information about state and national trends.

3. Interested persons may present their comments regarding the proposed rule, either orally or in writing, at the hearing. Written copies of all comments will be provided to the Commission a week in advance of its meeting if submitted to the Department's Salem Office by 5 p.m., Tuesday, May 27, 1986. Comments submitted after this date will also be provided to the Commission. Those written comments submitted after the date noted above or at the hearing must include 20 copies for their individual review.

4. A copy of the proposed rule, Citation of Statutory Authority, Statement of Need, Principal Documents Relied Upon, and Statement of Fiscal Impact are attached to and made a part of this notice. Copies of these are also available at the Department's office, 1175 Court Street NE, Salem, Oregon 97310.

5. The Commission Chairman, Stafford Hansell, will preside over and conduct the hearing.

DATED THIS 9th DAY OF MAY, 1986.

FOR THE COMMISSION:

James F. Ross, Director
Department of Land Conservation
and Development

JFR:sp
8349D/183C

PROPOSED ADMINISTRATIVE RULE
ON INDUSTRIAL AND COMMERCIAL DEVELOPMENT
OAR 660-09-000-025

FILED
MAY 9 1986
BARBARA ROBERTS
SECRETARY OF STATE

STATUTORY AUTHORITY

ORS Chapters 197 and 183, particularly ORS 197.040 and 197.712(2)(a-d)

ORS 197.712(2)(a-d) provide:

"(2) By the adoption of new goals or rules, or the application, interpretation or amendment of existing goals or rules, the commission shall implement all of the following:

(a) Comprehensive plans shall include an analysis of the community's economic patterns, potentialities, strengths and deficiencies as they relate to state and national trends.

(b) Comprehensive plans shall contain policies concerning the economic development opportunities in the community.

(c) Comprehensive plans and land use regulations shall provide for at least an adequate supply of sites of suitable sizes, types, locations and service levels for industrial and commercial uses consistent with plan policies.

(d) Comprehensive plans and land use regulations shall provide for compatible uses on or near sites zoned for specific industrial and commercial uses."

STATEMENT OF NEED

ORS 197.712(2) was adopted in 1983. This statute requires the Commission to assure that local plans provide adequate opportunities for economic development through "...the adoption of new goals or rules or the application, interpretation or amendment of existing goals or rules..."

The Commission has reviewed its existing Goals, principally Goal 9, and determined that a new administrative rule is the most appropriate and expeditious means of implementing ORS 197.712(2)(a-d).

PRINCIPAL DOCUMENTS RELIED UPON

1. ORS 197 and 183.

2. OAR 660 Division 1, "Procedural Rules, including Model Rules of Procedure."

3. Letter Opinion from the Attorney General's Office to James F. Ross, April 17, 1986.

4. LCDC-EDC ISSUES PAPER "Industrial and Commercial Development Planning Requirements of ORS 197.712."

FISCAL IMPACT

The implementation of this rule will require some additional work by cities and counties as they revise comprehensive plans for urban areas at the time of periodic review. The amount of work required will vary depending upon the size of the jurisdiction, the extent of previous planning for industrial and commercial uses and the extent of new information available on state and national trends.

BC:sp/8346D/191C

DIVISION 9

(000)-Purpose

The purpose of this division is to aid in achieving the requirements of Goal 9, Economy of the State (OAR 660-15-000(9)), by implementing the requirements of ORS 197.712(2)(a-d). The rule responds to legislative direction to assure that comprehensive plans and land use regulations are updated to provide adequate opportunities for a variety of economic activities throughout the state (197.712(1)) and to assure that plans are based on available information about state and national economic trends. (197.717(2)).

(005)-Definitions

(1) "Department": The Department of Land Conservation and Development.

(2) "Planning Area": The area subject to a comprehensive plan including plan policies, map designations, and land use regulations. The planning area for a city includes the whole area within the urban growth boundary including unincorporated urban and urbanizable land, except for cities within the Portland, Salem-Keizer and Eugene-Springfield metropolitan urban growth boundaries.

(3) "Locational factors": Features which affect where a particular type of commercial or industrial operation will locate. Locational factors include but are not limited to: proximity to raw materials, supplies, and services; proximity to markets or educational institutions; access to transportation facilities; labor market factors (e.g., skill level, education, age distribution).

(4) "Site requirement": The physical attributes of a site without which a particular type or types of industrial or commercial use cannot reasonably operate. To qualify as a "site requirement" a feature must be required for the operation of the use, not simply a desired feature. Site requirements vary from use to use and may include: a minimum acreage or site configuration, specific types or levels of public facilities and services, or direct access to a particular type of transportation facility (such as rail or deep water access).

(5) "Suitable": A site is suitable for industrial or commercial use if the site either provides for the site requirements of the proposed use or can be expected to provide for the site requirements of the proposed use within the planning period.

(6) "Useable": A site is useable if it is suitable, serviced, and the site is planned and zoned to allow the proposed use(s) either outright or through a land use permit review.

(7) "Serviced": A site is serviced if:

(a) Major public facilities, including at least sewer, water and roads currently have adequate capacity to serve development planned for the site or are scheduled to have adequate capacity within one year under the provisions of the jurisdiction's public facilities plan and

(b) major public facilities either are currently extended to the site, or can be provided to the site within one year of a user's application under the provisions of the jurisdiction's public facilities plan.

(8) "Redevelopable": A designated commercial or industrial site is redevelopable if:

(a) It is currently improved for other uses; or

(b) Is largely vacant or significantly under-utilized; and

(c) The affected city or county determines that the site could be redeveloped for designated industrial and commercial uses given reasonably foreseeable market conditions.

(9) Other Definitions: For the purposes of this division the definitions in ORS 197.015 shall apply.

(010)-Application

(1) This rule applies to comprehensive plans for areas within urban growth boundaries. Additional planning for industrial and commercial development outside urban growth boundaries is not required or restricted by this rule. Plan and ordinance amendments necessary to comply with this rule shall be adopted by affected jurisdictions.

(2) Comprehensive plans and land use regulations shall be amended to comply with this rule at the time of first periodic review of the plan (ORS 197.712(3)). Jurisdictions which have received a periodic review notice from the Department (pursuant to OAR 660-19-050) prior to the

effective date of this rule shall comply with this rule at their next periodic review unless otherwise directed by the Commission during their first periodic review.

(3) Jurisdictions which have done extensive economic development planning as part of their acknowledged comprehensive plans may rely on their existing plans to meet the requirements of this rule if they:

(a) Review new information about state and national trends and conclude there are no significant changes in economic development opportunities (e.g., a need for sites not presently provided for by the plan), and

(b) Findings are adopted which explain how existing inventories, policies, and implementing measures meet the requirements in Sections (015), (020) and (025).

(4) The effort necessary to comply with OAR 660-09-015 - 025 will vary depending upon the size of the jurisdiction, the detail of previous economic development planning efforts, and the extent of new information on local, state and national trends. A jurisdiction's planning effort is adequate if it uses the best available or readily collectable information to respond to the requirements of this rule.

(015)-Economic Opportunities Analysis

Cities and counties shall review and, as necessary, amend comprehensive plans to provide the information described in Sections (1)-(4).

(1) Review of National and State and Local Trends. The economic opportunities analysis shall identify the major categories of industrial and commercial uses that could reasonably be expected to locate or expand in the planning area based on available information about national, state and local trends. The analysis shall describe the current make up of the area's economy, including:

(a) The major categories of industrial and commercial activity currently occurring in the planning area;

(b) Past and present trends in each major category of industrial and commercial activity; and,

(c) The extent to which existing categories of industrial and commercial activity are likely to expand in the future.

The analysis shall include a description of the locational factors for each major category of industrial and commercial use.

(2) Site Requirements. The economic opportunities analysis shall identify the types of sites that are likely to be needed by industrial and commercial uses which might expand or locate in the planning area. Types of sites shall be identified based on the site requirements of expected uses. Local governments should survey existing firms in the planning area to identify the types of sites which may be needed for expansion.

Compatible uses with similar site requirements shall be grouped together into common site categories to simplify identification of site needs and subsequent planning.

(3) Inventory of Industrial and Commercial Lands. Comprehensive plans for all areas within urban growth boundaries shall include an inventory of vacant and redevelopable lands within the planning area which are designated for industrial or commercial use. The inventory shall provide the following information for vacant or redevelopable sites larger than one acre:

(a) Mapping showing the location of designated sites;

(b) Size of the site;

(c) Availability or proximity of key facilities (sewer and water and roads) to the site;

(d) Site constraints which physically limit developing the site for designated uses. Site constraints include but are not limited to:

(A) Site configuration;

(B) The site is not serviced;

(C) Inadequate access to the site and;

(D) Topographic constraints (e.g., floodplain, steep slopes, weak foundation soils.)

(4) Assessment of Community Economic Development Potential

The economic opportunities analysis shall estimate the types and amounts of industrial and commercial development likely to occur in the planning area. The estimate shall be based on information generated in response to (1) - (3) above and shall consider the planning area's economic advantages and disadvantages of attracting new or expanded development in general as well as particular types of industrial and commercial uses.

Relevant economic advantages and disadvantages include but need not be limited to:

- location relative to markets
- availability of key transportation facilities
- labor market factors
- materials and energy availability
- necessary support services
- pollution control requirements
- availability of key public facilities and services

(020)-Industrial and Commercial Development Policies

Comprehensive plans for planning areas subject to this rule shall include policies stating the economic development objectives for the planning area. For urban areas of over 2,500 in population these policies shall be based on the analysis prepared in response to section (015) and shall provide conclusions about the following:

(1) Community Development Objectives. The plan shall state the overall objectives for economic development in the planning area and identify categories or particular types of industrial and commercial uses anticipated and desired by the community. Plans may include policies to maintain existing categories, types or levels of industrial and commercial uses.

(2) Commitment to Provide Adequate Sites and Facilities. Consistent with policies adopted to meet (2) above, the plan shall include policies

committing the city or county to designate an adequate number of suitable sites and to ensure necessary public facilities through the public facilities plan for the planning area.

(025)-Designation of Lands for Industrial and Commercial Uses

Measures adequate to implement policies adopted pursuant to Section (020) shall be adopted. Appropriate implementing measures include amendments to plan and zone map designations, land use regulations, and public facility plans.

(1) Identification of Needed Sites. The plan shall identify the approximate number and acreage of sites needed to accommodate industrial and commercial uses to implement plan policies. The need for sites shall be specified in several broad "site categories," (e.g., light industrial, heavy industrial, commercial office, commercial retail, highway commercial, etc.) combining compatible uses with similar site requirements.

It is not necessary to provide a different type of site for each industrial or commercial use which may locate in the planning area. Several broad site categories will provide for industrial and commercial uses likely to occur in most planning areas.

(2) Long-Term Supply of Land. Plans shall designate land suitable to meet the site needs identified in (1) above. The total acreage of land designated in each site category shall at least equal the projected land needs for each category during the 20-year planning period. Jurisdictions need not designate sites for neighborhood commercial uses

in urbanizing areas if they have adopted plan policies which provide clear standards for redesignation of residential land to provide for such uses.

Designation of industrial or commercial lands which involve an amendment to the urban growth boundary must meet the requirements of OAR 660-04-010(1)(c)(B) and OAR 660-04-018(3)(a).

(3) Short-Term Supply of Serviced Sites. Public facility plans prepared pursuant to OAR 660-11-000 - 050 shall be reviewed at the time of periodic review and, as necessary, amended to assure that the number of suitable, serviced sites is adequate to meet needs for at least three years in each of following five years (i.e., in each year there must be a three-year supply of serviced sites). Estimates of needs shall be based on average annual absorption rates or derived from the plan's 20-year needs projection.

(4) Sites for Uses with Special Siting Requirements. Jurisdictions which adopt objectives or policies to provide for specific uses with special site requirements shall adopt policies and land use regulations to provide for the needs of those uses. Special site requirements include but need not be limited to large acreage sites, special site configurations, direct access to transportation facilities, or sensitivity to adjacent land uses, or coastal shoreland sites designated as especially suited for water-dependent use under Goal 17. Policies and land use regulations for these uses shall:

(a) Identify sites suitable for the proposed use;

(b) Protect sites suitable for the proposed use by limiting land divisions and permissible uses and activities to those which would not interfere with development of the site for the intended use.

(c) Where necessary to protect a site for the intended industrial or commercial use include measures which either prevent or appropriately restrict incompatible uses on adjacent and nearby lands.